



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,677	09/19/2005	Ehud Nagler	733/54	7716
44596 7590 12/24/2008 DR. MARK M. FRIEDMAN C/O BILL POLKINGHORN - DISCOVERY DISPATCH 9003 FLORIN WAY UPPER MERLBORO, MD 20772				
EXAMINER				
TRIEU, THERESA				
ART UNIT		PAPER NUMBER		
3748				
NOTIFICATION DATE		DELIVERY MODE		
12/24/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mark\_f@friedpat.com  
friedpat@yahoo.com  
sharon\_l@friedpat.com

### Office Action Summary

**Application No.**

10/549,677

**Applicant(s)**

NAGLER, EHUD

**Examiner**

Theresa Trieu

**Art Unit**

3748

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 4, 16-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 2, 5-15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 4 and 16-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Sept. 19, 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is responsive to the applicants' election filed on Sept. 19, 2008.

#### ***Election/Restrictions***

1. Applicant's election with traverse of the invention 1 (vane motor) and the species of the Figs. 4A-4D, reply filed on Sept. 19, 2008 is acknowledged. The traversal is on the ground(s) that applicant reverses the right to file a divisional application; however, not a proper traverse for a restriction requirement.

The requirement is still deemed proper and is therefore made FINAL.

Applicant's election of the species of Figs. 4A-4D, claims 1, 3, 4, 7-9, 11, 16-19, 21 and 22 being readable thereon is also acknowledged. However, claims 7-9 and 11 belong to species disclosed in Figs. 7 and 10; therefore, the examiner has not examined these claims. The examiner has examined claims 1, 3, 4, 16-19, 21 and 22 which read on the elected species of Figs. 4A-4D. Claims 2, 5-15 and 20 are withdrawn from consideration as being directed to a non elected species.

#### ***Drawings***

2. Applicants are required to shade the *casing* (12, 12') with the shading scheme with represents a *plastic* (see MPEP §608.02).

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Grotz (Patent Number 140,914) or Gadberry (Patent Number 674,837).

Regarding claims 1, 3 and 21, Grotz (as shown in Figs.1-8) or Gadberry (as shown in Figs.1-4) discloses a static-fluid-pressure-driven rotary vane motor for converting fluid pressure at an inlet into a mechanical rotary output, the motor comprising: a casing (A in Grotz; not numbered; clearly seen in Figs. 1 and 2 in Gadberry) defining a chamber having a fluid inlet (c in Grotz; 13 in Gadberry) and a fluid outlet (c' in Grotz; 14 in Gadberry); and at least one rotor assembly rotatably mounted within the casing, the rotor assembly including: a rotor (B in Grotz; 7 in Gadberry) mounted so as to be rotatable about an axis of rotation; a plurality of barrier elements (F in Grotz; 10 in Gadberry) associated with, and extending outwards from, the rotor, each of the barrier elements having an outer edge configured for passing in proximity to a facing wall of the casing chamber; and a resilient seal (d, e in Grotz; 16 in Gadberry) associated with at least the outer edge of each of the barrier elements, the resilient seal being configured to form a sliding seal between the outer edge and the facing wall while accommodating variations in clearance between the outer edge and the facing wall; wherein the at least one rotor assembly is mounted with the axis of rotation eccentrically located with respect to the casing, and wherein each of the barrier elements being implemented as a vane radially displaceable relative to the axis of rotation; a connector configuration associated with the fluid inlet of the motor and adapted for interconnection with a standard domestic water supply connector.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3748

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grotz in view of Gevelhoff (Patent Number 5,100,308).

Grotz discloses the invention as recited above; however, Grotz fails to disclose the casing being formed from plastic.

Gevelhoff teaches that it is conventional in the art to utilize the material being a plastic (see col. 3, lines 61-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the casing being formed from plastic, as taught by Gevelhoff in the Grotz apparatus, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

#### ***Allowable Subject Matter***

5. Claims 4 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the

references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP §2163.06 II(A), MPEP §2163.06 and MPEP §714.02. The "disclosure" includes the claims, the specification and the drawings.

### ***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

/Theresa Trieu/  
Primary Examiner, Art Unit 3748

Application/Control Number: 10/549,677  
Art Unit: 3748

Page 6